
THE UNITED STATES DISTRICT COURT
THE DISTRICT OF UTAH

LHF PRODUCTIONS, INC.,

Plaintiff,

v.

RUDY BERNAL,

Defendant.

**MEMORANDUM DECISION
AND ORDER GRANTING IN PART
AND DENYING IN PART MOTION
FOR DEFAULT JUDGMENT**

Case No. 2:19-cv-00371-DN

District Judge David Nuffer

Plaintiff LHF Productions, Inc. seeks entry of default judgment, a permanent injunction, and an award of attorney's fees against Defendant Rudy Bernal.¹ Specifically, Plaintiff seeks an award of \$10,000 in statutory damages against Defendant; a permanent injunction enjoining Defendant from directly or indirectly infringing Plaintiff's copyright in the motion picture *London Has Fallen*; and an award of costs and attorney's fees.²

Plaintiff's counsel in this case is the same as the plaintiff's counsel in *LHF Productions, Inc. v. Gonzales et al.*, No. 2:17-cv-00103-DN (D. Utah). A complaint³ and motion for default judgment⁴ were filed in *Gonzales*, which are substantively identical to those filed in this case.⁵ The only relevant differences are: the named defendant.

¹ Plaintiff's Motion for Default Judgment, Permanent Injunction and Attorney's Fees as to Certain Defendants ("Motion"), [docket no. 30](#), filed Jan. 28, 2021.

² *Id.* at 2.

³ Amended Complaint for Copyright Infringement and Jury Demand, [ECF No. 81](#) in *Gonzales*, filed June 20, 2019.

⁴ Plaintiff's Motion for Default Judgment Permanent Injunction and Attorney's Fees as to Certain Defendants, [ECF No. 96](#) in *Gonzales*, filed June 29, 2020.

⁵ Amended Complaint for Copyright Infringement and Jury Demand ("Complaint"), [docket no. 9](#), filed July 8, 2019; Motion.

On October 28, 2020, a Memorandum Decision and Order Granting in Part and Denying in Part Motion for Default Judgment was entered in *Gonzales* (“*Gonzales* Memorandum Decision and Order”).⁶ Because this case and *Gonzales* are substantively identical, the *Gonzales* Memorandum Decisions and Order’s analysis, findings of fact, and conclusions of law⁷ are adopted in total and apply to Plaintiff’s Motion in this case.

Defendant was served⁸ with Plaintiff’s Complaint; failed to timely appear and respond; and default has entered against Defendant.⁹ Additionally, the factual allegations of Plaintiff’s Complaint, which are deemed admitted,¹⁰ demonstrate that Defendant is liable for willfully infringing¹¹ Plaintiff’s copyright in the motion picture *London Has Fallen* through use of BitTorrent protocols over the Internet.

Therefore, Plaintiff is entitled to entry of a default judgment against Defendant, which includes an award of statutory damages¹² against Defendant and a permanent injunction¹³ enjoining Defendant from directly or indirectly infringing Plaintiff’s copyright. Plaintiff is also entitled to an award of its costs and reasonable attorney’s fees.¹⁴ But because an award of \$750

⁶ [ECF No. 101](#) in *Gonzales*, filed Oct. 28, 2020 (“*Gonzales* Memorandum Decision and Order”).

⁷ *Id.* at 2-25.

⁸ Proof of Service, [docket no. 20](#), filed July 28, 2020.

⁹ Entry of Default Pursuant to FRCP 55(a) as to a Certain Defendant, [docket no. 29](#), filed Jan. 14, 2021. When the court mailed the Entry of Default to Defendant, it was returned as undeliverable due to an outdated address. No new address was available. That does not prevent entry of default judgment against Defendant. Defendant was properly served with the Complaint in this action. Having been properly served, it is Defendant’s responsibility to update his address with the court in the event that he moves to a new address.

¹⁰ *Tripodi v. Welch*, 810 F.3d 761, 764-65 (10th Cir. 2016).

¹¹ 17 U.S.C. §§ 411(a), 501; *La Resolana Architects, PA v. Reno, Inc.*, 555 F.3d 1171, 1177-1180 (10th Cir. 2009).

¹² 17 U.S.C. § 504(c).

¹³ *Id.* § 502(a).

¹⁴ *Id.* § 505.

in statutory damages against Defendant is just under the circumstances,¹⁵ rather than the \$10,000 requested, Plaintiff's Motion¹⁶ is GRANTED in part and DENIED in part.

ORDER

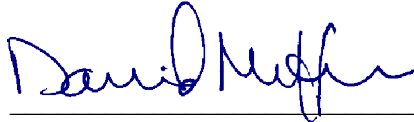
IT IS HEREBY ORDERED that Plaintiff's Motion¹⁷ is GRANTED in part and DENIED in part. Default judgment shall enter in favor of Plaintiff and against Defendant Rudy Bernal. The default judgment shall include an award to Plaintiff of \$750 in statutory damages against Defendant and a permanent injunction enjoining Defendant from directly or indirectly infringing Plaintiff's copyright in the motion picture *London Has Fallen*. Plaintiff is also entitled to an award of its costs and reasonable attorney's fees, the amount of which shall be determined by subsequent motion.

IT IS FURTHER ORDERED that any motion for attorney's fees must be filed within 14 days after the default judgement's entry.

The Clerk is directed to close the case.

Signed June 28, 2021.

BY THE COURT



David Nuffer
United States District Judge

¹⁵ *Gonzales* Memorandum Decision and Order at 4-25.

¹⁶ [Docket no. 30](#), filed Jan. 28, 2021.

¹⁷ [Docket no. 30](#), filed Jan. 28, 2021.